HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.12022 OF 2001

Between:

N.Govindarajulu Naidu

. . .Petitioner

AND

Government of Andhra Pradesh, Hyderabad and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri M.Abid Ali
for Shri V.Rajagopal Reddy

Counsel for respondent Nos.1 to 3 : Assistant Government Pleader for Industries and Commerce

Counsel for respondent No.4 : Shri K.V.Subrahmanya Narusu

Dated: 12th September, 2007

-

The petitioner, who submitted application dated 29.10.1999 for grant of quarry lease for road metal and building stone, but succeeded in seeking its conversion into an application for grant of prospecting license for colour granite in two hectares in Survey No.'O' Gap area of S.R.R. Kandriga, Palasamudram Mandal, Chittoor District has filed this petition for quashing order dated 07.06.2001 vide which the State Government rejected his prayer for grant of quarry prospecting licence for colour granite.

I have heard Shri Abid Ali, learned counsel appearing for the petitioner, learned Assistant Government Pleader for Industries and Commerce and Shri Subrahmanya Narusu, learned counsel for respondent No.4 and scrutinized the record.

It is not in dispute that while the petitioner had sought for conversion of his application for grant of lease for road metal and building stone into one for grant of lease for colour granite and deposited the balance amount and security through bank chalans dated 3.1.2000, respondent No.4 applied for grant of lease for colour granite over the same area on 10.12.1999. It is also not in dispute that Writ Petition No.2315 of 2000 filed by the petitioner for issue of a mandamus to the Director of Mines and Geology (respondent No.2 herein) to grant quarry lease over an area measuring 1.000 hectare was disposed of by the learned Single Judge on 19.4.2000 by directing the respondents to dispose of his application in accordance with the latest policy of the Central Government and the law laid down

by the Supreme Court in **T.N. Godavarman Thirumulkpad v. Union of India**[1] and **T.N. Godavarman Thirumulkpad v. Union of India**[2], in case the land falls within reserved forest and in compliance of the Court's order, respondent No.2, after considering the report submitted by Assistant Director of Mines and Geology, Chittoor (respondent No.3 herein), Mandal Revenue Officer, Palasamudram, passed order dated 20.5.2000 whereby he rejected the petitioner's application and granted prospecting licence for colour granite to respondent No.4 for a period of two years. This is evinced from the following extract of the order:

> "The Granite Conservation and Development Rules, 1999 enacted by Government of India have come into force w.e.f. 1-6-99. The State Government have issued order vide G.O.Ms.No.412, Ind. & Comm. (M.I) Department, dt.23-12-99 to the effect that the new policy under Granite Conservation and Development Rules, 1999 as notified by the Government of India shall be adopted by the State Government in toto with effect from the date of notification by the Government of India i.e. on 1-6-99. Further, the State Government vide G.O.Ms.No.42, Ind. & Comm. (Mines) Dept., dt.13-1-2000, issued notification authorizing the Director of Mines and Geology to exercise the powers exercisable by the State Government under Granite Conservation and Development Rules, 1999 except the revisional powers under Rule 46 of the said rules as per the powers conferred under Rule 53 of Granite Conservation and Development Rules, 1999.
>
> Further the Government have issued orders vide Memo No.12077/M.I (2)/99, dt. 13-1-2000 authorising the Director of Mines and Geology to convert the pending Granite quarry lease applications into Prospeceting License applications as per Rule 4 of Granite Conservation and Development Rules, 1999 with the prior consent of the applicants. Further, M/s. Sai Krishna Granites have also consented through a notarized affidavit dt.17-4-2000 for conservation of their quarry lease application into P.L. application.
>
> In view of the above circumstances stated above, while rejecting the quarry lease application of Sri M. Govindarajulu for Multi Colour Granite over an extent of 1.000 hectares in S.No. Gap area of

S.R.R. Kandriga Village, Palasamudram Mandal, Chittoor District, Sri G. Manmadha Naidu, Prop. Sai Krishna Granites is hereby granted a prospecting licence for colour granite over an extent of 2.000 hectares in S.No. Gap area of S.R.R. Kandriga Village, Palasamudram Mandal, Chittoor District for a period of two years as per Rule 12 (5)(a) (i) of APMMC Rules, 1966 and read with Rule 4 of Granite Conservation and Development Rules, 1999.

The grantee shall pay the following amounts before execution of the prospecting licence deed:

1. Prospecting fee: Rs.15,000/- per hectare per annum

2. Land Assessment: As per the rates prescribed by the Revenue authorities

3. Cess on Land Assessment: At the rate of 0.37 paise per rupee of Land Assessment

4. Security Deposit: Rs.10,000/- per hectare.

5. Survey charges of the differential amount of Rs.2,445/-

The revision preferred by the petitioner against the order of respondent No.2 was dismissed by the State Government by a speaking order dated 7.6.2001, paragraphs 6 and 7 of which read as under:

> "6. With regard to the grounds made by the petitioner Sri M. Govindarajulu in his revision application, Government observed the following:
>
> 1. the application dt.29-10-99 was for Road Metal and building stone and subsequently converted it into the Granite application for grant, which itself shows that the Granite available in the area is useful for cutting and polishing.
>
> 2. The petitioner himself gave consent to grant quarry lease for colour granite and remitted the balance amount of quarry lease application fee and deposit amount for granite mineral. Therefore, the question of considering the petitioners application for road metal and building stone does not arise and likewise the issuance of orders on the application by the Deputy Director of Mines and Geology. The Director of Mines

and Geology is the authority for disposing the quarry lease/prospecting licence applications for Granite. Since, the applicant has remitted the application fee and deposit amount and also given consent for grant of quarry lease for Granite, the Director of Mines and Geology has disposed the quarry lease application of the petitioner as per rules.

3. There is no information or evidence brought to notice that the Asst. Director of Mines and Geology, Chittoor has induced the petitioner Sri M.Govindarajulu to convert his quarry lease application for granite. The petitioner himself has given consent for grant of quarry lease for granite and he has also paid the differential amount towards application fee and deposit amount. Further, the petitioner has also signed on the surveyed sketch to an extent of 1.000 hect. Hence, the Director of Mines and Geology granted the quarry lease according to the priority of the application and as per rules.

4. It is submitted that the petitioner himself has come forward for conversion of his quarry lease application for road metal and building stone into application for Granite. Therefore, consideration of the application for Road metal and Building stone does not arise.

5. It is submitted that the Hon'ble High Court vide W.P.No.2315/2000, dt.19-4-2000 have disposed the writ petition directing the Director of Mines and Geology to dispose the quarry lease application of Sri M.Govinda Rajulu for grant of quarry lease in accordance with the latest policy of the Central Government. These directions have also been taken into account, while disposing the quarry lease application.

6. The quarry lease application of the petitioner Sri M.Govindarajulu has been disposed of as per the provisions contained under A.P.M.M.C.Rules, 1966 and Granite Conservation Rules, 1999 which was issued by the Central Government. Therefore, disposing of the quarry lease application of the petitioner is in accordance with the rules.

7. Sri M.Govinda Rajulu initially filed a quarry lease application for Road metal and building stone in the précised area and later made a representation to treat his above quarry lease application for Granite Mineral instead of Road Metal and building stone, duly paying the

> differential amount towards application fee and deposit amount. The quarry lease application of Sri M.Govinda Rajulu can be treated as an application for grant of quarry lease for colour granite with effect from 3.1.2000 i.e. from the date of payment of differential amount towards application fee and deposit amount only and not from 29-10-99 i.e. the date of filing of application for road metal and building stone. Therefore, the priority goes to the applicant Sri G.Manmadha Naidu, Prop. of M/s.Sai Krishna Granites whose application was received on
> 10-12-99 for multi colour granite for the same area. Hence, the action of the Director of Mines and Geology in having granted quarry lease in favour of M/s.Sai Krishna Granites is correct."

Shri Abid Ali, learned counsel for the petitioner made efforts to convince the Court that the direction given by Director of Mines and Geology to respondent No.4 to deposit differential amount representing Survey Charges i.e. Rs.2,445/- should be treated as sufficient for drawing an interference that the application of respondent No.4 was filed after the one made by the petitioner, but having gone through the scheme of Granite Conservation and Development Rules, 1999 (for short, 'the Rules') read with the Andhra Pradesh Minor Mineral Concession Rules, 1966, I am convinced that the application filed by respondent No.4 on 10.12.1999 cannot be treated as later in point of time vis-à-vis the application filed by the petitioner for conversion of its application for grant of road metal and building stone into that of lease for colour granite. There is no provision in the Rules for deposit of Survey Charges as a condition precedent for entertaining the application for grant of prospecting license. Therefore, the mere fact that the order passed by respondent No.2 makes a mention of deposit of survey charges by respondent No.4 cannot be made basis for holding that the application of respondent No.4 was subsequent in point of time.

No other point has been argued.

In the result, the writ petition is dismissed.

G.S.SINGHVI, CJ

12th September, 2007

kvni

---

[1] AIR 1997 SC 1228

[2] AIR 1997 SC 1233